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 FIVE HAPPINESS RESTAURANT, INC.,  
 WILLIAM P. YANG and MEI-MEI KOO YANG

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

LES JANKEY, an individual; and	)	Case No. CV 08-02733 MMC
DISABILITY RIGHTS, ENFORCEMENT,	)	
EDUCATION, SERVICES: HELPING	)	
YOU HELP OTHERS, a California public	)	
benefit corporation,	)	ANSWER TO COMPLAINT FOR
	)	INJUNCTIVE RELIEF AND DAMAGES
Plaintiffs,	)	
	)	
vs.	)	
	)	
FIVE HAPPINESS RESTAURANT, INC.,	)	
a California corporation; WILLIAM P.	)	
YANG and MEI-MEI KOO YANG,	)	Complaint Filed: May 30, 2008
husband and wife as community property,	)	
	)	
Defendants.	)	

Defendants Five Happiness Restaurant, Inc., William P. Yang, and Mei-Mei Koo Yang  
 ("Defendants"), for themselves and no other persons or entities hereby answer plaintiffs'  
 Complaint in this action by admitting, denying and alleging as follows:

**ANSWER RE ALLEGATIONS TO INTRODUCTION**

1. Answering paragraph 1 of the complaint, defendants lack sufficient information  
 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
 allegations set forth in paragraph 1.

2. Answering paragraph 2 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
2 allegations set forth in paragraph 2.

3 **ANSWER RE ALLEGATIONS TO JURISDICTION AND VENUE**

4 3. Answering paragraph 3 of the complaint, defendants admit that this Court has  
5 jurisdiction under 28 U.S.C. Section 1331 and that supplemental (referred to as “pendant” in the  
6 complaint) jurisdiction exists under 28 U.S.C. Section 1367 over plaintiffs’ state law claims.  
7 Defendants reserve their right to move this Court at an appropriate time to decline exercising its  
8 supplemental jurisdiction. Defendants deny the remaining allegation in paragraph 3.

9 4. Answering paragraph 4 of the complaint, defendants admit that venue is proper in  
10 this Court.

11 **ANSWER RE ALLEGATIONS TO PARTIES**

12 5. Answering paragraph 5 of the complaint, defendants lack sufficient information  
13 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
14 allegations set forth in paragraph 5. However, to the extent that plaintiffs have made legal  
15 conclusions in this paragraph, defendants deny these allegations.

16 6. Answering paragraph 6 of the complaint, defendants lack sufficient information  
17 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
18 allegations set forth in paragraph 6. To the extent that plaintiffs have stated legal conclusions in  
19 this paragraph, defendants deny these allegations.

20 7. Answering paragraph 7 of the complaint, defendants lack sufficient information  
21 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
22 allegations set forth in paragraph 7. To the extent that plaintiffs have stated legal conclusions in  
23 this paragraph, defendants deny these allegations.

24 8. Answering paragraph 8 of the complaint, defendants admit that they own and  
25 operate the Five Happiness restaurant located at 4142 Geary Boulevard, San Francisco,  
26 California. Except as expressly stated, defendants lack sufficient information or knowledge  
27 about the remaining matters alleged in this paragraph, and on that basis, defendants deny the  
28 remaining allegations set forth in paragraph 8.

1           9.       Answering paragraph 9 of the complaint, defendants admit that they own and  
2 operate the Five Happiness restaurant located at 4142 Geary Boulevard, San Francisco,  
3 California. Except as expressly stated, defendants lack sufficient information or knowledge  
4 about the remaining matters alleged in this paragraph, and on that basis, defendants deny the  
5 remaining allegations set forth in paragraph 9.

6           10.      Answering paragraph 10 of the complaint, defendants lack sufficient information  
7 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
8 allegations set forth in paragraph 10. To the extent that plaintiffs have stated legal conclusions in  
9 this paragraph, defendants deny these allegations.

10           **ANSWER RE ALLEGATIONS TO PRELIMINARY FACTUAL ALLEGATIONS**

11           11.      Answering paragraph 11 of the complaint, defendants admit that the Five  
12 Happiness Restaurant is located at 4142 Geary Boulevard, San Francisco, California. Except as  
13 expressly stated, defendants deny each and every remaining allegation in paragraph 11. To the  
14 extent that plaintiffs have stated legal conclusions in this paragraph, defendants deny these  
15 allegations.

16           12.      Answering paragraph 12 of the complaint, defendants lack sufficient information  
17 or knowledge about the matters alleged therein, and on that basis, defendants deny each and  
18 every allegation set forth in paragraph 12.

19           13.      Answering paragraph 13 of the complaint, defendants deny each and every  
20 allegation set forth in paragraph 13.

21           14.      Answering paragraph 14 of the complaint, defendants lack sufficient information  
22 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
23 allegations set forth in paragraph 14.

24           15.      Answering paragraph 15 of the complaint, defendants lack sufficient information  
25 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
26 allegations set forth in paragraph 15.

27           16.      Answering paragraph 16 of the complaint, defendants lack sufficient information  
28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 16.

2 17. Answering paragraph 17 of the complaint, defendants lack sufficient information  
3 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
4 allegations set forth in paragraph 17.

5 18. Answering paragraph 18 of the complaint, defendants lack sufficient information  
6 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
7 allegations set forth in paragraph 18.

8 19. Answering paragraph 19 of the complaint, defendants lack sufficient information  
9 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
10 allegations set forth in paragraph 19.

11 20. Answering paragraph 20 of the complaint, defendants lack sufficient information  
12 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
13 allegations set forth in paragraph 20.

14 21. Answering paragraph 21 of the complaint, defendants lack sufficient information  
15 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
16 allegations set forth in paragraph 21.

17 22. Answering paragraph 22 of the complaint, defendants lack sufficient information  
18 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
19 allegations set forth in paragraph 22.

20 23. Answering paragraph 23 of the complaint, defendants lack sufficient information  
21 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
22 allegations set forth in paragraph 23.

23 24. Answering paragraph 24 of the complaint, defendants lack sufficient information  
24 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
25 allegations set forth in paragraph 24. To the extent that plaintiffs have stated legal conclusions in  
26 this paragraph, defendants deny these allegations.

27 25. Answering paragraph 25 of the complaint, defendants lack sufficient information  
28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 25. To the extent that plaintiffs have stated legal conclusions in  
2 this paragraph, defendants deny these allegations.

3 26. Answering paragraph 26 of the complaint, defendants lack sufficient information  
4 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
5 allegations set forth in paragraph 26. To the extent that plaintiffs have stated legal conclusions in  
6 this paragraph, defendants deny these allegations.

7 27. Answering paragraph 27 of the complaint, defendants lack sufficient information  
8 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
9 allegations set forth in paragraph 27. To the extent that plaintiffs have stated legal conclusions in  
10 this paragraph, defendants deny these allegations.

11 28. Answering paragraph 28 of the complaint, defendants deny each and every  
12 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
13 paragraph, defendants deny these allegations.

14 29. Answering paragraph 29 of the complaint, defendants deny each and every  
15 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
16 paragraph, defendants deny these allegations.

17 30. Answering paragraph 30 of the complaint, defendants lack sufficient information  
18 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
19 allegations set forth in paragraph 30. To the extent that plaintiffs have stated legal conclusions in  
20 this paragraph, defendants deny these allegations.

21 31. Answering paragraph 31 of the complaint, defendants lack sufficient information  
22 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
23 allegations set forth in paragraph 31. To the extent that plaintiffs have stated legal conclusions in  
24 this paragraph, defendants deny these allegations.

25 32. Answering paragraph 32 of the complaint, defendants lack sufficient information  
26 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
27 allegations set forth in paragraph 32. To the extent that plaintiffs have stated legal conclusions in  
28 this paragraph, defendants deny these allegations.

1           33.     Answering paragraph 33 of the complaint, defendants lack sufficient information  
2 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
3 allegations set forth in paragraph 33. To the extent that plaintiffs have stated legal conclusions in  
4 this paragraph, defendants deny these allegations.

5           34.     Answering paragraph 34 of the complaint, defendants deny each and every  
6 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
7 paragraph, defendants deny these allegations.

8           35.     Answering paragraph 35 of the complaint, defendants admit that plaintiffs seek  
9 injunctive relief. Defendants lack sufficient information or knowledge about the remaining  
10 allegations in paragraph 35, and on that basis, deny these allegations. To the extent that  
11 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

12           36.     Answering paragraph 36 of the complaint, defendants admit that plaintiffs seek  
13 statutory damages. Defendants lack sufficient information or knowledge about the remaining  
14 allegations in paragraph 36, and on that basis, deny these allegations. To the extent that  
15 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

16           37.     Answering paragraph 37 of the complaint, defendants deny each and every  
17 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
18 paragraph, defendants deny these allegations.

19           38.     Answering paragraph 38 of the complaint, defendants deny each and every  
20 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
21 paragraph, defendants deny these allegations.

22           39.     Answering paragraph 39 of the complaint, defendants deny each and every  
23 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
24 paragraph, defendants deny these allegations.

25           40.     Answering paragraph 40 of the complaint, defendants deny each and every  
26 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
27 paragraph, defendants deny these allegations.

28           41.     Answering paragraph 41 of the complaint, defendants deny each and every

1 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
2 paragraph, defendants deny these allegations.

3 42. Answering paragraph 42 of the complaint, defendants lack sufficient information  
4 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
5 allegations set forth in paragraph 42. To the extent that plaintiffs have stated legal conclusions in  
6 this paragraph, defendants deny these allegations.

7 **ANSWER RE ALLEGATIONS TO FIRST CAUSE OF ACTION**

8 43. Answering paragraph 43 of the complaint, defendants hereby incorporate their  
9 responses to paragraphs 1 through 42 as though fully set forth herein.

10 44. Answering paragraph 44 of the complaint, defendants lack sufficient information  
11 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
12 allegations set forth in paragraph 44. To the extent that plaintiffs have stated legal conclusions in  
13 this paragraph, defendants deny these allegations.

14 45. Answering paragraph 45 of the complaint, defendants lack sufficient information  
15 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
16 allegations set forth in paragraph 45. To the extent that plaintiffs have stated legal conclusions in  
17 this paragraph, defendants deny these allegations.

18 46. Answering paragraph 46 of the complaint, defendants lack sufficient information  
19 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
20 allegations set forth in paragraph 46. To the extent that plaintiffs have stated legal conclusions in  
21 this paragraph, defendants deny these allegations.

22 47. Answering paragraph 47 of the complaint, defendants lack sufficient information  
23 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
24 allegations set forth in paragraph 47. To the extent that plaintiffs have stated legal conclusions in  
25 this paragraph, defendants deny these allegations.

26 48. Answering paragraph 48 of the complaint, defendants lack sufficient information  
27 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
28 allegations set forth in paragraph 48. To the extent that plaintiffs have stated legal conclusions in

1 this paragraph, defendants deny these allegations.

2 49. Answering paragraph 49 of the complaint, defendants lack sufficient information  
3 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
4 allegations set forth in paragraph 49. To the extent that plaintiffs have stated legal conclusions in  
5 this paragraph, defendants deny these allegations.

6 50. Answering paragraph 50 of the complaint, defendants lack sufficient information  
7 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
8 allegations set forth in paragraph 50. To the extent that plaintiffs have stated legal conclusions in  
9 this paragraph, defendants deny these allegations.

10 51. Answering paragraph 51 of the complaint, defendants deny each and every  
11 allegation set forth therein. To the extent that plaintiffs have stated legal conclusions in this  
12 paragraph, defendants deny these allegations.

13 52. Answering paragraph 52 of the complaint, defendants lack sufficient information  
14 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
15 allegations set forth in paragraph 52. To the extent that plaintiffs have stated legal conclusions in  
16 this paragraph, defendants deny these allegations.

17 53. Answering paragraph 53 of the complaint, defendants lack sufficient information  
18 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
19 allegations set forth in paragraph 53. To the extent that plaintiffs have stated legal conclusions in  
20 this paragraph, defendants deny these allegations.

21 54. Answering paragraph 54 of the complaint, defendants lack sufficient information  
22 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
23 allegations set forth in paragraph 54. To the extent that plaintiffs have stated legal conclusions in  
24 this paragraph, defendants deny these allegations.

25 **ANSWER RE ALLEGATIONS TO SECOND CAUSE OF ACTION**

26 55. Answering paragraph 55 of the complaint, defendants hereby incorporate their  
27 responses to paragraphs 1 through 54 as though fully set forth herein.

28 56. Answering paragraph 56 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
2 allegations set forth in paragraph 56. To the extent that plaintiffs have stated legal conclusions in  
3 this paragraph, defendants deny these allegations.

4 57. Answering paragraph 57 of the complaint, defendants lack sufficient information  
5 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
6 allegations set forth in paragraph 57. To the extent that plaintiffs have stated legal conclusions in  
7 this paragraph, defendants deny these allegations.

8 58. Answering paragraph 58 of the complaint, defendants lack sufficient information  
9 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
10 allegations set forth in paragraph 58. To the extent that plaintiffs have stated legal conclusions in  
11 this paragraph, defendants deny these allegations.

12 59. Answering paragraph 59 of the complaint, defendants lack sufficient information  
13 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
14 allegations set forth in paragraph 59. To the extent that plaintiffs have stated legal conclusions in  
15 this paragraph, defendants deny these allegations.

16 60. Answering paragraph 60 of the complaint, defendants lack sufficient information  
17 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
18 allegations set forth in paragraph 60. To the extent that plaintiffs have stated legal conclusions in  
19 this paragraph, defendants deny these allegations.

20 61. Answering paragraph 61 of the complaint, defendants lack sufficient information  
21 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
22 allegations set forth in paragraph 61. To the extent that plaintiffs have stated legal conclusions in  
23 this paragraph, defendants deny these allegations.

24 62. Answering paragraph 62 of the complaint, defendants lack sufficient information  
25 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
26 allegations set forth in paragraph 62. To the extent that plaintiffs have stated legal conclusions in  
27 this paragraph, defendants deny these allegations.

28 63. Answering paragraph 63 of the complaint, defendants lack sufficient information

1 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
2 allegations set forth in paragraph 63. To the extent that plaintiffs have stated legal conclusions in  
3 this paragraph, defendants deny these allegations.

4 64. Answering paragraph 64 of the complaint, defendants lack sufficient information  
5 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
6 allegations set forth in paragraph 64. To the extent that plaintiffs have stated legal conclusions in  
7 this paragraph, defendants deny these allegations.

8 **ANSWER RE ALLEGATIONS TO THIRD CAUSE OF ACTION**

9 65. Answering paragraph 65 of the complaint, defendants hereby incorporate their  
10 responses to paragraphs 1 through 64 as though fully set forth herein.

11 66. Answering paragraph 66 of the complaint, defendants lack sufficient information  
12 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
13 allegations set forth in paragraph 66. To the extent that plaintiffs have stated legal conclusions in  
14 this paragraph, defendants deny these allegations.

15 67. Answering paragraph 67 of the complaint, defendants lack sufficient information  
16 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
17 allegations set forth in paragraph 67. To the extent that plaintiffs have stated legal conclusions in  
18 this paragraph, defendants deny these allegations.

19 68. Answering paragraph 68 of the complaint, defendants lack sufficient information  
20 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
21 allegations set forth in paragraph 68. To the extent that plaintiffs have stated legal conclusions in  
22 this paragraph, defendants deny these allegations.

23 69. Answering paragraph 69 of the complaint, defendants lack sufficient information  
24 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
25 allegations set forth in paragraph 69. To the extent that plaintiffs have stated legal conclusions in  
26 this paragraph, defendants deny these allegations.

27 70. Answering paragraph 70 of the complaint, defendants lack sufficient information  
28 or knowledge about the matters alleged therein, and on that basis, defendants deny the

1 allegations set forth in paragraph 70. To the extent that plaintiffs have stated legal conclusions in  
2 this paragraph, defendants deny these allegations.

3 71. Answering paragraph 71 of the complaint, defendants lack sufficient information  
4 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
5 allegations set forth in paragraph 71. To the extent that plaintiffs have stated legal conclusions in  
6 this paragraph, defendants deny these allegations.

7 72. Answering paragraph 72 of the complaint, defendants admit that plaintiffs seek  
8 injunctive relief. Defendants lack sufficient information or knowledge about the remaining  
9 allegations in paragraph 72, and on that basis, deny these allegations. To the extent that  
10 plaintiffs have stated legal conclusions in this paragraph, defendants deny these allegations.

11 **ANSWER RE ALLEGATIONS TO FOURTH CAUSE OF ACTION**

12 73. Answering paragraph 73 of the complaint, defendants hereby incorporate their  
13 responses to paragraphs 1 through 72 as though fully set forth herein.

14 74. Answering paragraph 74 of the complaint, defendants lack sufficient information  
15 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
16 allegations set forth in paragraph 74. To the extent that plaintiffs have stated legal conclusions in  
17 this paragraph, defendants deny these allegations.

18 75. Answering paragraph 75 of the complaint, defendants lack sufficient information  
19 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
20 allegations set forth in paragraph 75. To the extent that plaintiffs have stated legal conclusions in  
21 this paragraph, defendants deny these allegations.

22 76. Answering paragraph 76 of the complaint, defendants lack sufficient information  
23 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
24 allegations set forth in paragraph 76. To the extent that plaintiffs have stated legal conclusions in  
25 this paragraph, defendants deny these allegations.

26 77. Answering paragraph 77 of the complaint, defendants lack sufficient information  
27 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
28 allegations set forth in paragraph 77. To the extent that plaintiffs have stated legal conclusions in

1 this paragraph, defendants deny these allegations.

2 78. Answering paragraph 78 of the complaint, defendants lack sufficient information  
3 or knowledge about the matters alleged therein, and on that basis, defendants deny the  
4 allegations set forth in paragraph 78. To the extent that plaintiffs have stated legal conclusions in  
5 this paragraph, defendants deny these allegations.

6 **ANSWER RE ALLEGATIONS TO PRAYER**

7 79. Defendants deny each and every allegation made by plaintiffs in their prayer for  
8 relief alleged in the complaint (hereinafter “prayer for relief”):

9 **I. ON THE FIRST CAUSE OF ACTION:**

10 1. Answering paragraph 1 of the prayer for relief on the first cause of action,  
11 defendants deny each and every allegation set forth therein.

12 2. Answering paragraph 2 of the prayer for relief on the first cause of action,  
13 defendants deny each and every allegation set forth therein.

14 3. Answering paragraph 3 of the prayer for relief on the first cause of action,  
15 defendants deny each and every allegation set forth therein.

16 **II. ON THE SECOND CAUSE OF ACTION:**

17 1. Answering paragraph 1 of the prayer for relief on the second cause of action,  
18 defendants deny each and every allegation set forth therein.

19 2. Answering paragraph 2 of the prayer for relief on the second cause of action,  
20 defendants deny each and every allegation set forth therein.

21 3. Answering paragraph 3 of the prayer for relief on the second cause of action,  
22 defendants deny each and every allegation set forth therein.

23 4. Answering paragraph 4 of the prayer for relief on the second cause of action,  
24 defendants deny each and every allegation set forth therein.

25 5. Answering paragraph 5 of the prayer for relief on the second cause of action,  
26 defendants deny each and every allegation set forth therein.

27 6. Answering paragraph 6 of the prayer for relief on the second cause of action,  
28 defendants deny each and every allegation set forth therein.

1           7.       Answering paragraph 7 of the prayer for relief on the second cause of action,  
2 defendants deny each and every allegation set forth therein.

3           **III.    ON THE SECOND CAUSE OF ACTION:**

4           1.       Answering paragraph 1 of the prayer for relief for general and compensatory  
5 damages on the second cause of action, defendants deny each and every allegation set forth  
6 therein.

7           **IV.    ON THE THIRD CAUSE OF ACTION:**

8           1.       Answering paragraph 1 of the prayer for relief on the third cause of action,  
9 defendants deny each and every allegation set forth therein.

10          2.       Answering paragraph 2 of the prayer for relief on the third cause of action,  
11 defendants deny each and every allegation set forth therein.

12          3.       Answering paragraph 3 of the prayer for relief on the third cause of action,  
13 defendants deny each and every allegation set forth therein.

14          4.       Answering paragraph 4 of the prayer for relief on the third cause of action,  
15 defendants deny each and every allegation set forth therein.

16          5.       Answering paragraph 5 of the prayer for relief on the third cause of action,  
17 defendants deny each and every allegation set forth therein.

18           **V.    ON THE FOURTH CAUSE OF ACTION:**

19          1.       Answering paragraph 1 of the prayer for relief on the fourth cause of action,  
20 defendants deny each and every allegation set forth therein.

21          2.       Answering paragraph 2 of the prayer for relief on the fourth cause of action,  
22 defendants deny each and every allegation set forth therein.

23          3.       Answering paragraph 3 of the prayer for relief on the fourth cause of action,  
24 defendants deny each and every allegation set forth therein.

25          4.       Answering paragraph 4 of the prayer for relief on the fourth cause of action,  
26 defendants deny each and every allegation set forth therein.

27          5.       Answering paragraph 5 of the prayer for relief on the fourth cause of action,  
28 defendants deny each and every allegation set forth therein.

1           6.       Answering paragraph 6 of the prayer for relief on the fourth cause of action,  
2 defendants deny each and every allegation set forth therein.

3           **VI. ON THE FOURTH CAUSE OF ACTION:**

4           1.       Answering paragraph 1 of the prayer for relief for general and compensatory  
5 damages on the fourth cause of action, defendants deny each and every allegation set forth  
6 therein.

7           80.       Wherefore, Defendants pray for judgment as set forth below.

8                           **AFFIRMATIVE DEFENSES**

9           81.       AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
10 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint, and each  
11 cause of action thereof, fails to state facts sufficient to constitute a cause of action against  
12 defendants.

13           82.       AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
14 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint, and each  
15 cause of action thereof, fails to state facts sufficient to support a finding of statutory damages  
16 under California law.

17           83.       AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
18 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs failed subsequent  
19 to the occurrence described in the complaint properly to mitigate their damages and thereby are  
20 precluded from recovering those damages which could have reasonably been avoided by the  
21 exercise of due care on the part of plaintiffs.

22           84.       AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
23 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs were themselves  
24 careless, negligent and at fault for the matters alleged in the complaint; that said carelessness,  
25 negligence or fault on plaintiffs' own part proximately contributed to the happening of the  
26 incident and to the injuries, loss and damage complained of, if any there were; that should  
27 plaintiffs recover damages, defendant is entitled to have the amount thereof abated, reduced or  
28 eliminated to the extent that plaintiffs caused or contributed to their injuries, if any.

1           85.     AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
2 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs acted with full  
3 knowledge of all the facts and circumstances surrounding their alleged injuries and damages and  
4 assumed the risk of the matters causing their alleged injuries and damages, and that said matters  
5 of which plaintiffs assumed the risk proximately contributed to the happening of the incident at  
6 bar and proximately caused their injuries and damages, if any.

7           86.     AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
8 COMPLAINT ON FILE HEREIN, answering defendants allege that named and/or unnamed  
9 third parties were careless, negligent or at fault for the matters alleged in the complaint; that said  
10 carelessness, negligence or fault of said named and/or unnamed third parties proximately  
11 contributed to the happening of the incident and to the injuries, loss and damage complained of  
12 by plaintiffs, if any there were; that should plaintiffs recover damages, then defendants are  
13 entitled to have the amount thereof abated, reduced or eliminated to the extent that said named  
14 and/or unnamed third parties caused or contributed to plaintiffs' injuries, if any.

15           87.     AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
16 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by  
17 the doctrine of laches.

18           88.     AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
19 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by  
20 the doctrine of unclean hands.

21           89.     AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
22 COMPLAINT ON FILE HEREIN, answering defendants allege that to permit recovery in  
23 respect of the matters herein alleged would violate the provisions of California Constitution, Art.  
24 I, §§ 1, 7, 9, 15 and 16.

25           90.     AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
26 COMPLAINT ON FILE HEREIN, answering defendants allege that to permit recovery in  
27 respect of the matters herein alleged would violate the provisions of United States Constitution,  
28 Amendments V, VII, VIII and XIV.

1           91. AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
2 COMPLAINT ON FILE HEREIN, answering defendants allege that no removal of barriers or  
3 alternative methods of modification are or were “readily achievable” as defined in Title III of the  
4 Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq., including but not limited to  
5 §12818) and 28 C.F.R. Part 36.104.

6           92. AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
7 COMPLAINT ON FILE HEREIN, answering defendants allege that they have not intentionally  
8 engaged in conduct designed to discriminate against individuals with disabilities such as  
9 plaintiffs, by deliberately seeking to preclude such individuals from access to the goods and  
10 services that defendants provide to non-disabled individuals.

11           93. AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
12 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs’ claims are barred  
13 by the applicable statutes of limitation, including, but not limited to, California Code of Civil  
14 Procedure Section 340(3).

15           94. AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
16 COMPLAINT ON FILE HEREIN, answering defendants allege that this answering defendant  
17 cannot be held liable for the injuries and damages of plaintiffs, if any there were or are, as this  
18 answering defendant’s alleged conduct was not the proximate cause of the injuries and damages  
19 of plaintiffs, if any.

20           95. AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
21 COMPLAINT ON FILE HEREIN, answering defendants allege that said complaint is barred by  
22 the doctrines of waiver and estoppel.

23           96. AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
24 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs failed prior to  
25 commencement of this action to exhaust all necessary administrative remedies and therefore  
26 plaintiffs are precluded from maintaining this action.

27           97. AS A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
28 COMPLAINT ON FILE HEREIN, answering defendants allege that plaintiffs have no standing

1 to maintain this action.

2 98. AS AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
3 COMPLAINT ON FILE HEREIN, answering defendants allege that no removal of barriers or  
4 alternative methods of modification are or were required pursuant to 42 U.S.C. section 12101, et.  
5 seq., the Unruh Civil Rights Act (Civil Code section 51 et. seq.), and other applicable Federal  
6 and State Codes.

7 99. AS AN NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE  
8 COMPLAINT ON FILE HEREIN, answering defendants allege that there has been no  
9 remodeling, alteration, or modification of the subject premises sufficient to trigger potentially  
10 applicable access requirements under state and federal law as alleged in plaintiffs' complaint.

11 100. Defendants do not waive, but hereby reserve, their right to assert additional  
12 defenses based on information gathered during the course of additional investigation and/or  
13 discovery.

14 WHEREFORE, this answering defendant prays for judgment as follows:

15 1. That plaintiffs take nothing by virtue of their complaint on file herein and that this  
16 action be dismissed;

17 2. For costs of suit herein incurred;

18 3. For reasonable attorney's fees incurred;

19 4. That plaintiffs' requested injunction be denied; and

20 5. For such other and further relief as the Court may deem just and proper.

21  
22 Dated: August 22, 2008

LIVINGSTON LAW FIRM

23 /s/ Jason G. Gong

24 By \_\_\_\_\_  
25 Renée Welze Livingston  
26 Jason G. Gong  
27 Attorneys for Defendants  
28 FIVE HAPPINESS RESTAURANT, INC.,  
WILLIAM P. YANG and MEI-MEI KOO  
YANG

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